IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3641 of 2007()

CRIME NO.95/07 OF NEDUPUZHA POLICE STATION.

PETITIONER/2ND ACCUSED

RENNY P.R., AGED 26 YEARS, S/O.RAPPAI,
PONTHEKKAN HOUSE, KANIMANGALAM, THRISSUR.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
NEDUPUZHA POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 3641 OF 2007

Dated this the 19th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. Along with the co-accused, he faces allegations, inter alia, under Sec.394 of the IPC. The crux of the allegations is that the accused persons – three in number, were involved in an incident in a `Thattukada' where they allegedly attacked the three other persons who were available at the Thattukada. Two of them ran away and the third was allegedly taken hostage by the accused, who assaulted him, caused injuries to him, snatched away his gold chain and removed him in an autorikshaw from the scene of the occurrence to leave him later at a hospital. Investigation is in progress. The 1st accused has already been arrested. He has been interrogated. In the F.I.R., only the 1st accused is named and two persons accompanying the 1st accused are shown as the co-accused. It

is only after interrogation of the 1st accused that the identity of the petitioner and the 3rd accused was ascertained. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even accepting all the allegations, the 1st accused is the principal offender and the petitioner had only accompanied the said accused. Snatching away of the gold chain was even allegedly committed by the 1st accused. In these circumstances, the petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances justifying the invocation of the discretion under Sec.438 of the Cr.P.C. It is not necessary at all to permit the petitioner to get himself armed with an order of anticipatory bail. The gold chain which is allegedly thieved has not been recovered. The interrogation of the 1st accused did not give the police any clue and, in these circumstances, it is necessary for the police to interrogate the petitioner herein also. Custodial interrogation is necessary as recovery of the costly article is to be attempted. I shall scrupulously avoid any unnecessary

detailed discussion or expression of opinion on the disputed question. Suffice it to say that having rendered my very anxious consideration to the submissions made at the Bar and having perused the Case Diary in detail, I am not persuaded to agree that this is a fit case where the extraordinary equitable discretion under Sec.438 of the Cr.P.C. deserves to be invoked in favour of the petitioner. This, I am satisfied, is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate and co-operate with the Investigator in the proper conduct of the investigation.

4. This application for anticipatory bail is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge